

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

INTERVET, INC. and  
BTG INTERNATIONAL LIMITED,

Plaintiffs,

v.

MERIAL LIMITED,

Defendant.

Civil Action No. 05-887-KAJ

**DEFENDANT MERIAL LIMITED'S MOTION  
TO STAY THE LITIGATION PENDING REEXAMINATION**

Pursuant to the inherent powers of this Court to control its docket, Defendant Merial Limited ("Merial") hereby moves to stay this patent infringement action filed by Plaintiffs Intervet, Inc. ("Intervet") and BTG International Limited ("BTG") until there is a final decision in the Reexamination of the patent-in-suit, U.S. Patent No. 5,587,166, Ordered by the United States Patent and Trademark Office. The grounds for this motion are set forth in the accompanying Opening Brief in Support of Defendant Merial Limited's Motion to Stay the Litigation Pending Reexamination.

Counsel for Merial has discussed this motion with counsel for Intervet and BTG, and Intervet and BTG have indicated that they are not currently able to consent to the relief sought in the present motion. The statement required by Local Rule 7.1.1 is attached as Exhibit A.

An order in the form prepared by Merial is attached as Exhibit B.

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Dated: June 2, 2006

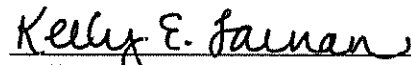
  
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Attorneys for Merial Limited

# **EXHIBIT A**

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1**

The undersigned hereby certifies that counsel for Merial Limited ("Merial") has conferred with counsel for Intervet Inc. and BTG International Limited (collectively, "Plaintiffs") regarding Merial's Motion to Stay. Counsel for Plaintiffs has informed Merial that Plaintiffs are not currently able to consent to the relief sought in the motion.



Kelly E. Farnan (#4395)  
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## **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

INTERVET, INC. and  
BTG INTERNATIONAL LIMITED,

Plaintiffs,

v.

MERIAL LIMITED,

Defendant.

Civil Action No. 05-887-KAJ

**[PROPOSED] ORDER**

The Court, having considered the motion of Defendant Merial Limited ("Merial") for a stay of this action until there is a final determination in the Reexamination of United States Patent No. 5,587,166 ("the '166 patent") ongoing before the United States Patent and Trademark Office ("USPTO"), all papers filed on behalf of Merial in support of the motion and on behalf of Plaintiffs in opposition of the motion, the oral argument of counsel for the respective parties, if any, and the current status of the case and of the Reexamination,

**IT IS HEREBY ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2006 that the Motion of Merial to Stay the Litigation Pending Reexamination of the '166 patent is **GRANTED**. This action is stayed until there is a final decision in the Reexamination of the '166 patent.

**IT IS FURTHER ORDERED** that the parties will provide the Court with a report on the status of the Reexamination six months from the date of this Order, and at six month intervals thereafter until there is a final decision in the Reexamination, including a report on the final decision in the Reexamination.

\_\_\_\_\_  
HONORABLE KENT A. JORDAN  
UNITED STATES DISTRICT JUDGE


**CERTIFICATE OF SERVICE**

I hereby certify that on June 2, 2006, I electronically filed the foregoing document with the Clerk of Court using CM/ECF which will send notification of such filings, and hand delivered, to the following:

John W. Shaw  
Young, Conaway, Stargatt & Taylor, LLP  
The Brandywine Building  
1000 West Street, 17<sup>th</sup> Floor  
Wilmington, DE 19899-0391

I hereby certify that on June 2, 2006 I sent the foregoing document by Electronic Mail and Federal Express, next business day delivery, to the following non-registered participants:

Richard L. DeLucia  
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